

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/698,495 Confirmation No. 9594
Inventors : James A. MOONEY, et al.
Filed : October 31, 2003
TC/A.U. : 3653
For : VIBRATORY SCREENING MACHINE AND VIBRATORY
SCREEN AND SCREEN TENSIONING STRUCTURE
Examiner : Matthew J. Kohner
Docket No. : 13265/7
Customer No. : 26646

COMMISSIONER FOR PATENTS
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DECLARATION UNDER 37 C.F.R. § 1.132

I, John Bakula, do declare and state:

1. I am a citizen of the United States and reside at 128 Trails End Grand Island, New York.

I am presently Executive Vice President, Derrick Corporation of Buffalo New York.

I have 32 years of experience in the areas of screens, screening technology, mining and drilling operations as well as the named inventor on several United States Patents, including U.S. patent 5,332,101.

2. In my present position as Executive Vice President I oversee numerous supervisory and product development personnel involved with design and production of screens and screening technologies and am familiar with these technologies.
3. I have reviewed the specification of the present application, as well as the prosecution history for this application. I have reviewed the Office Action dated November 17, 2005 as well as the references cited therein. In this Office Action, the Examiner has rejected pending claim 34 in light of United States Patent 5,332,101 ("Bakula"). I am the named inventor of the United States Patent 5,332,101.
4. I have reviewed the Bakula reference and am familiar with this reference as I am the named inventor. The Office Action dated November 17, 2005 states that column 5, lines 32 and 33 describe finger receiving apertures as contained in claim 34. In my review of the Bakula reference, I note that the description is written and intended to be read in its **entirety** where the description states "apertured steel plate having a plurality of screens". The description in Bakula column 5, lines 32 and 33 clearly states that the apertures configuration and intended use is to be used in conjunction with a plurality of screens and thus cannot be finger-receiving apertures as required in claim 34. Moreover, the Bakula reference cannot be modified to disclose or suggest such a configuration as required in the claim 34 of the present application. The intended use of Bakula is with a "plurality of screens" and does not, as provided in the current application, have first and second series of apertures and the first and second side edge portions respectively wherein the apertures are finger receiving. A person of skill in the art would not find that Bakula recites such a configuration.

5. The present application in claim 34 recites “a screen on said plate, and first and second portions of said screen assembly spaced from and overlying said first and second finger-receiving apertures, respectively, and secured between said plate and said first and second flanges, respectively.” Again, it is noted, that the Bakula reference states that screens are adhesively secured to an upper surface with the ends of the plate being formed into channels in column 5, lines 33 to 35. In my review of the Bakula reference, there is not any disclosure or suggestion of any configuration required in this feature of claim 34. The Bakula reference should be read in its entirety and not in a piece-meal fashion, thus any apertures are covered by a screen, as provided in both the specification and the drawings. As the named inventor of the Bakula reference, I hereby state that this reference does not contain such configurations as provided in the present applications claim 34. Moreover, the Bakula reference, due to its construction, cannot be modified to disclose the features of claim 34 of the present application. Additionally, the Bakula reference does not disclose or suggest the features of

6. The undersigned declares that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 24 Jan. 2006

John J. Bakula



John J. Bakula